
Federal Agricultural Legislation up to 1988

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FOREWORD

For a number of years, Agriculture Canada distributed a publication prepared by Agriculture Legal Services entitled *Federal Agricultural Legislation up to 1985*, which succeeded an earlier publication identifying federal agricultural legislation up to 1977. Both publications gave an overview of the laws of the federal government administered by the Minister of Agriculture that affected the agricultural industry.

As a result of the proclamation of the *Revised Statutes of Canada 1985* together with Appendices and four Supplements, the last publication required serious revisions and updating.

This publication, therefore, summarizes legislation up to December 31, 1988, and should be used only for information. Where a legal interpretation is needed, the statutes themselves remain the appropriate source.

The text is based on the *Revised Statutes of Canada 1985* (R.S.C. 1985) and subsequent statutes of Canada (S.C.).

Agriculture Legal Services Unit

CONSTITUTIONAL LAW

CONSTITUTION ACT, 1867, R.S.C. 1985, Appendices, No. 5.

The division of legislative powers between the federal government and the provinces is set out in sections 91 and 92 of the *Constitution Act*, 1867.

Section 91 of the *Constitution Act*, 1867, lists the matters that are the exclusive jurisdiction of the federal government, giving it the exclusive power to legislate in certain specific areas. The section also empowers the federal government to make laws "for the Peace, Order and good Government of Canada, in relation to all Matters not coming within the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces". This general power to legislate may be exercised on all matters that do not come within the various classes of subjects enumerated in section 92, which sets out the exclusive powers of the provinces. Every legislature (federal and provincial) has supreme authority in its sphere of activity and any legislative power not specifically assigned to the provinces belongs to the federal government, which possesses the residuary legislative powers under the Canadian Constitution.

Section 95 gives the federal government and the provinces concurrent legislative powers over agriculture and immigration. The section reads as follows:

95. In each Province, the Legislature may make Laws in relation to Agriculture in the Province; and it is hereby declared that the Parliament of Canada may from time to time make Laws in relation to Agriculture in all or any of the Provinces, and to Immigration into all or any of the Provinces; and any Law of the Legislature of a Province relative to Agriculture or to Immigration shall have effect in and for the Province as long and as far only as it is not repugnant to any Act of the Parliament of Canada.

Under section 95, therefore, the federal government and the provinces share legislative powers in the area of agriculture. In the event of incompatibility between the two laws, however, the federal legislation takes precedence.

To be valid, any law adopted by the federal government must be in its real nature and essence a law on agriculture. The marketing of agricultural products in a province is within the province's legislative jurisdiction. This interpretation is based on paragraph 13 of section 92, which gives a province the power to legislate on property and civil rights in the province, and on paragraph 16, which gives a province the power to legislate on all matters of a merely local or private nature.

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ADVANCE PAYMENTS FOR CROPS ACT, R.S.C. 1985, c. C-49

Amendment: 1st Supplement c. 38

"An Act providing for advance payments for field crops grown in Canada except for wheat, oats and barley grown in the Canadian Wheat Board designated area"

A guarantee is given to a producer organization which uses the guarantee to borrow funds from a lending institution. Under an agreement with producers, advances are issued for each unit of crop in storage to a maximum of \$30,000 for individual producers, \$60,000 for corporations or partnerships with two shareholders or partners and \$90,000 for corporations and partnerships with three or more shareholders or members. The advance is repaid as the crop is sold. The interest on the loan made for the purpose of making advances is paid by the federal government, as well as any advances which are not repaid, once the producer organization has attempted to collect the principal and interest.

AGRICULTURAL PRODUCTS BOARD ACT, R.S.C. 1985, c. A-4

"An Act to provide for the establishment of an Agricultural Products Board"

This Act defines "agricultural products" as "livestock and livestock products, poultry and poultry products, milk and milk products, vegetables and vegetable products, fruit and fruit products, honey, maple syrup, tobacco, fibre and fodder crops and any products of agriculture designated by the Governor-in-Council as an agricultural product for the purposes of this Act."

Subject to regulations, the Agricultural Products Board may, with the authority of the Governor-in-Council and under the direction of the Minister of Agriculture:

- (a) sell or deliver agricultural products to the government of any country pursuant to any agreement made by the federal government with the government of such country, and for those purposes may purchase agricultural products and make such arrangements for the purchase, sale or delivery of agricultural products as it considers necessary or desirable;

- (b) purchase or negotiate contracts for the purchase of agricultural products on behalf of the government of any country;
- (c) buy, sell or import agricultural products;
- (d) by order, require any person to give such information respecting agricultural products as may be necessary for the proper administration of this Act; and
- (e) store, transport, process or enter into contracts for the storage, transportation or processing of agricultural products.

The Act further stipulates that the Board is not permitted to sell, without the approval of the Governor-in-Council, an agricultural product pursuant to subsections (a) and (c) at a price lower than the purchase price, plus handling, storage and transportation costs.

The Board is also empowered to buy and distribute agricultural products under the powers given it by the *Agricultural Stabilization Act*.

AGRICULTURAL PRODUCTS COOPERATIVE MARKETING ACT, R.S.C. 1985, c. A-5

"An Act to assist and encourage cooperative marketing of agricultural products."

This Act authorizes the Minister of Agriculture, with the approval of the Governor-in-Council, to enter into an agreement with a cooperative association, processor or selling agency, to guarantee an initial payment to producers and the actual processing, carrying and selling costs for an agricultural product. The guarantee is based on an estimate of wholesale market prices and marketing costs for the coming year. When the subsequent actual average wholesale price is less than the total guaranteed amount, the Minister is liable for the difference. The guarantee protects the cooperative association against unusually low market prices.

The cooperative association, processor or selling agency must have a cooperative plan which applies to a sufficient proportion of product, so the Minister may judge that the marketing of the product under the cooperative plan will benefit primary producers.

In this Act, "agricultural product" means any kind of grain, such as oats and barley, other than wheat that is grown in the area defined by the *Canadian*

Wheat Board Act, milk and milk products, vegetables and vegetable products, livestock and livestock products, fruit and fruit products, poultry and poultry products, honey, maple syrup, tobacco and any other product of agriculture that might be so designated by the Governor-in-Council.

AGRICULTURAL PRODUCTS MARKETING ACT, R.S.C. 1985, c. A-6

"An Act to provide for the marketing of agricultural products in interprovincial and export trade"

Under the Act, the Governor-in-Council may grant to any provincial board or agency the authority to regulate the marketing of an agricultural product in interprovincial and export trade. For this purpose, the board or agency may exercise all or any powers such as those they exercise in the local marketing of that agricultural product within the province, including the authority to fix, impose and collect levies.

Such authority is granted by an order of the Governor-in-Council.

AGRICULTURAL STABILIZATION ACT, R.S.C. 1985, c. A-8

Amendment: 1st Supplement c. 40

"An Act to provide for the stabilization of agricultural products."

An "agricultural commodity" for the purposes of the Act means:

- (a) any of the following commodities produced in Canada, namely cattle, hogs, lambs, wool, industrial milk, industrial cream, corn, soybeans and spring wheat, winter wheat, oats and barley not produced in the designated area as defined in the *Canadian Wheat Board Act*; and
- (b) any other natural or processed products of agriculture (including oats and barley produced in the designated area and not marketed through the Canadian Wheat Board) designated by the Governor-in-Council as an agricultural commodity.

The Act provides for the establishment of an Agricultural Stabilization Board and for an Advisory Committee to the Board, composed of farmers and representatives of farm organizations. It is the duty of the Board to:

- (a) take such action in accordance with this Act as is necessary to stabilize the prices of agricultural commodities at their respective prescribed prices; and
- (b) make such recommendations to ensure that the prescribed prices of agricultural commodities for any period bear a fair relationship to the estimated production costs of those commodities for that period.

The Board establishes the base price of each agricultural commodity, or its grade, quality, variety, class, type or form, the price of which is to be stabilized under this Act.

The base price of an agricultural commodity for any period is based on a five-year average price at representative markets as determined by the Board.

Section 10 provides for the establishment of prescribed prices.

Section 12 grants powers to the Board to enable it to meet its objectives, and includes the power to purchase an agricultural commodity, pay producers a form of stabilization, make payments for the benefit of producers and sell, dispose of, package, process, store, ship, transport, insure and otherwise deal with a commodity.

Section 13 allows the Board, subject to Order-in-Council, to enter into agreements with provinces and/or producers to provide a price stabilization scheme for an agricultural commodity, provided the Minister is satisfied in an agreement with a province that such an agreement would not give a financial advantage in the production or marketing of the commodity not enjoyed by other producers of that commodity in Canada, and would not be an incentive to those producers who are parties to the agreement or are to benefit from it to over-produce the commodity.

ANIMAL DISEASE AND PROTECTION ACT, R.S.C. 1985, c. A-11

"An Act respecting infectious or contagious diseases affecting animals and the protection of animals"

In the Act, "reportable diseases means African Swine Fever, anaplasmosis, anthrax, avian pneumoencephalitis (Newcastle Disease), blue-tongue, brucellosis, cysticercosis (bovine), equine infectious anemia, equine piroplasmiasis, foot-and-mouth disease, Fowl Plague, fowl typhoid, glanders, hog cholera, maladie du coit (dourine), mange, pullorum disease, rabies, rinderpest, scrapie, sheep scab, trichinosis, tuberculosis, vesicular disease of swine,

vesicular exanthema of swine, vesicular stomatitis or such other disease as may, from time to time, be designated by the Minister."

The Act provides the Minister and the Governor-in-Council with the authority to control infectious and contagious animal diseases (including reportable diseases), and to provide compensation for destruction of animals, animal by-products and for other items ordered destroyed under the Act.

All owners, breeders and dealers of animals, veterinarians, and those bringing animals into Canada, must immediately notify the nearest veterinary inspector of the Department of Agriculture should a reportable disease be discovered. Owners who fail to give notice of disease forfeit their claim to compensation for any animals destroyed under the Act.

The conditions that could result in the destruction of diseased animals, animal products and other items are outlined in Section II.

The amount of compensation is the market value of the animals immediately before destruction, if they had not been subject to destruction under this Act. Compensation cannot however exceed the maximum amounts prescribed by the Governor-in-Council for horses, and for cattle and sheep destroyed pursuant to an area or herd disease eradication program under the regulations.

Where compensation is less than the maximum prescribed under this Act, or where no compensation is awarded, an appeal may be brought to the Assessor appointed under the *Pesticide Residue Compensation Act* on the grounds that compensation awarded or the failure to award compensation may have been unreasonable.

Under section 15, the Minister may, by order, prohibit importation of animals and related things for the purpose of preventing the introduction to Canada of infectious or contagious animal diseases.

Inspectors and other officers may be appointed as necessary and in the manner authorized by law to enforce this Act.

ANIMAL PEDIGREE ACT, S.C. 1988, c. 13

"An Act respecting animal pedigree associations"

This Act provides for the incorporation of associations for the purpose of keeping a record of purebreds and registered and identified domestic animals

of one or more distinct breeds of the same animal species. Only one association for each distinct breed or for a number of breeds of the same species may be incorporated under the Act. The Act establishes the Canadian Livestock Records Corporation, which keeps records of any incorporated associations requesting its services.

CANADA AGRICULTURAL PRODUCTS ACT, S.C. 1988, c. 27

"An Act to regulate the marketing of agricultural products in import, export and interprovincial trade and to provide for national standards and grades of agricultural products, for their inspection and grading, for the registration of establishments and for standards governing establishments"

This Act establishes national standards and grades for agricultural products and regulates their marketing in import, export and interprovincial trade as well as providing for their inspection. The Act also establishes a Board of Arbitration and a Review Tribunal for the resolution of disputes involving licensed dealers who fail to comply with the regulations under the Act.

CANADA GRAIN ACT, R.S.C. 1985, c. G-10

"An Act respecting grain"

This Act establishes the Canadian Grain Commission. In the interests of the grain producers, the Commission's objects are to establish and maintain quality standards for Canadian grain and to regulate grain handling to ensure a dependable commodity for domestic and export markets.

It establishes committees for eastern and western grain standards. Each recommends specifications for grain grades and selects and recommends primary standard samples and export grain standard samples. A schedule to the Act establishes certain "statutory" grades.

The Commission has jurisdiction over the inspection of grain, licensing elevator operators and grain dealers and applying standards and procedures which regulate the handling, transportation and storage of grain and the facilities used therefor.

The Act also provides for a tribunal to hear appeals regarding the grading of grain, and declares certain elevators to be works for the general advantage of Canada.

CANADIAN DAIRY COMMISSION ACT, R.S.C. 1985, c. C-15

"An Act to provide for the establishment of a Dairy Commission for Canada "

This Act establishes a three-member corporation, known as the Canadian Dairy Commission, to provide efficient producers of milk and cream the opportunity to obtain a fair return for their labor and investment, and to provide consumers of dairy products with a continuous and adequate supply of high-quality dairy products.

Subject to and in accordance with regulations established under this Act, the Commission may:

- (a) purchase any dairy product, sell or otherwise dispose of any dairy product purchased by it;
- (b) package, process, store, ship, insure, import or export any dairy product purchased by it;
- (c) make payments for the benefit of producers of milk and cream, for the purpose of stabilizing the price of those products, on the basis of volume, quality or on such other basis as the Commission deems appropriate;
- (d) make investigations into any matter relating to the production, processing or marketing of any dairy product, including the cost of producing, processing or marketing that product;
- (e) undertake and assist in the promotion of dairy products, the improvement of their quality and variety, and publication of relevant information; and
- (f) do all such acts and things as are necessary or incidental to the exercise of any of its powers or functions under the Act.

For the purposes of this Act, "dairy product" is broadly defined and means "milk, cream, butter, cheese, condensed milk, evaporated milk, milk powder,

dry milk, ice cream, malted milk or any other product manufactured wholly or mainly from milk, and includes sherbet."

For the purpose of carrying out any investigation, the Commission has all the powers of a Commissioner appointed under Part I of the *Inquiries Act*.

The Governor-in-Council may make regulations concerning the marketing of any dairy product and may also make regulations requiring the registration of producers of milk and cream before making payment for the benefit of such producers.

The Governor-in-Council may include on the Import Control List established under the *Export and Import Permits Act*, any dairy product, the controlled import of which is deemed necessary for implementing action under this Act to support the price of that dairy product, or that has the effect of supporting the price of that dairy product.

The Act provides for appointment of inspectors and imposition of penalties for those who violate the provisions of this Act.

CANADIAN WHEAT BOARD ACT, R.S.C. 1985, c. C-24

Amendment: 1988 S.C. c. C-92

"An Act to provide for the constitution and powers of the Canadian Wheat Board"

Part I of this Act provides for the establishment of a board called the Canadian Wheat Board. It is incorporated with the object of marketing, in an orderly manner, in interprovincial and export trade, grain grown in Canada.

The Board has authority to buy, take delivery of, store, transfer, sell, ship or otherwise dispose of grain, enter into contracts or agreements, operate elevators and establish, use and employ such marketing agencies or facilities as are necessary to "sell and dispose of grain acquired by it pursuant to its operations under this Act for such prices as it considers reasonable with the object of promoting the sale of grain produced in Canada in world markets".

Part II stipulates the conditions for delivery of grain to an elevator or to a railway car and for the issuance and use of permit books. Some of the Board's administrative powers under this Part include authority to: prescribe railway delivery points; fix, from time to time, the quotas of each kind of grain which producers may deliver within a period; prohibit deliveries of

grain; provide for the allocation of railway cars available for the shipment of grain at any delivery point; make inquiries and investigations to ascertain the availability of delivery and transportation facilities, supplies of grain and all matters connected with the interprovincial or export marketing of grain.

The Governor-in-Council may, by regulation, extend the provisions of Part II to any area in Canada outside the designated area specified in the regulation.

Pursuant to Part III of the Act, the Board is authorized to undertake the marketing of wheat produced in the designated area in interprovincial and export trade, and for such purposes to:

- (a) buy all wheat produced in the designated area, offered by a producer for sale and delivery to the Board at an elevator or in a railway car, in accordance with the provisions of this Act and the regulations and orders of the Board;
- (b) pay to producers, selling and delivering wheat produced in the designated area to the Board, a sum certain per tonne basis in store Thunder Bay or Vancouver, to be fixed from time to time by regulation of the Governor-in-Council in respect of wheat of the grade No. 1 Canada Western Red Spring, and by the Board in respect of each other grade;
- (c) issue to a producer, who sells and delivers wheat produced in the designated area to the Board, a certificate indicating the grade and number of tonnes purchased and delivered, which entitles the named producer to share in the equitable distribution of any surplus arising from the operations of the Board with regard to the wheat produced in the designated area sold and delivered to the Board during the same pool period.

The Board distributes the balance remaining in its account in respect of wheat purchased by it during a pool period, after deducting all monies disbursed by the Board for expenses incurred in connection with the operations of the Board attributable to that wheat and in connection with the operations of the Board under Part II. The balance is distributed among holders of certificates issued by the Board pursuant to this Part during the pool period. Upon surrender of certificates, the Board pays the named person the appropriate sum for the stated grade and amount of wheat.

The Governor-in-Council may authorize the Board to transfer to a current pool all wheat delivered during a preceding period which remains unsold at the end of that pool period, and to close out accounts which have been inactive and unclaimed for more than six years.

Part IV provides that, except as permitted under the Regulations, no person other than the Board shall:

- (a) export from or import into Canada wheat or wheat products owned by a person other than the Board;
- (b) transport or cause to be transported from one province to another, wheat or wheat products owned by a person other than the Board;
- (c) sell or agree to sell wheat or wheat products situated in one province for delivery in another province or outside Canada; or
- (d) buy or agree to buy wheat or wheat products situated in one province in another province or outside Canada.

Part V provides that the Governor-in-Council may by regulation extend the application of Part III or Part IV or of both Parts III and IV to oats or to barley or to both oats and barley. The word "oats" or "barley" as the case may be, shall be substituted for "wheat". The sum certain per tonne to be fixed by the Governor-in-Council may be fixed in respect of oats or barley basis in storage either Thunder Bay or Vancouver or only Thunder Bay or only Vancouver.

Part VI provides for the establishment of marketing plans for the marketing of grain in interprovincial or export trade.

Part VI also provides that the Governor-in-Council may make certain regulations generally for carrying out the purposes and provisions of this Part.

Part VII provides, under section 76, that all flour mills, feed warehouses, feed mills and seed-cleaning mills are to be considered works for the general advantage of Canada and therefore subject to the provisions of this Act.

CRIMINAL CODE — SECTION 204, R.S.C. 1985, c. C-46

"An Act respecting Criminal Law"

Section 204 of the Criminal Code is under the jurisdiction of the Minister of Agriculture. It covers the pari-mutuel race track system of betting. No pari-mutuel system of betting on horse races can be conducted unless

approved by the Minister of Agriculture and its operation supervised by someone appointed by the Minister. The Minister may make regulations regarding the supervision and operation of pari-mutuel systems, amounts payable to race track authorities per dollar wagered, the number of races per day on which betting may be conducted, the conduct of races including photo finish, blood, urine and saliva testing, the possession and administering of drugs, the provision of proper facilities for supervision and operation, telephone-account betting, foreign races, separate pool and intertrack betting as well as theatre betting.

CROP INSURANCE ACT, R.S.C. 1985, c. C-48

"An Act to provide for contributions and loans to the provinces in respect of crop insurance"

This Act makes it possible for the federal government to assist provinces in the provision of all-risk crop insurance to farmers. It enables the Minister of Agriculture to enter into agreement with any province to make contributions toward the cost of the insurance scheme. Risk-sharing agreements can also be made by way of loans or reinsurance of part of the province's liability. Under subsection 4(2), where a contribution to administration expenses is made, the contribution is to be an amount equal to the aggregate of:

- (a) 50% of expenses incurred by the province in the administration of the scheme; and
- (b) if the province has undertaken to pay a share of the premiums, the lesser of:
 - (i) the amount required to reimburse the province for its share of the premiums; or
 - (ii) 25% of the premium paid.

When no contribution toward the scheme's administration expenses is made and the province pays a share of premiums, the federal contribution to the province is the lesser of:

- (a) the amount required to reimburse the province for the share of the premiums paid by it; or
- (b) 50% of the premiums paid on the insurance policies.

Section 9 provides for extended insurance coverage against:

- (a) loss arising from the destruction of stands of fruit trees or perennial plants other than trees; and
- (b) loss arising when the seeding or planting of crops is prevented by excess ground moisture, weather or agricultural hazards.

When there is an agreement with the province to provide extended coverage, the Minister may, subject to any regulations, agree to the payment by Canada to that province of contributions on the same basis as described under subsection 4(2).

DEPARTMENT OF AGRICULTURE ACT, R.S.C. 1985, c. A-9

"An Act respecting the Department of Agriculture"

The purpose of this Act is to establish a Department of the Government of Canada called the Department of Agriculture, presided over by the Minister of Agriculture.

The following subjects are under the control and direction of the Minister of Agriculture:

- (a) agriculture;
- (b) arts and manufactures;
- (c) experimental farm stations; and
- (d) forest resources of Canada.*

The Governor-in-Council may assign any other power or duty to the Minister.

The Minister is to submit to the Governor-in-Council an annual report on the operations of the department to be laid before both Houses of Parliament.

* The *Revised Statutes of Canada* 1985 revision added the subject "forest resources of Canada" but this was transferred to the Minister of State (Forestry) by Order-in-Council dated September 15, 1988.

EXPERIMENTAL FARM STATIONS ACT, R.S.C. 1985, c. E-16

"An Act respecting Experimental Farm Stations"

This Act was proclaimed in 1886. It authorizes the Governor-in-Council to establish a central experimental farm station in the National Capital Region, and five other experimental farm stations, one each in the Maritimes, Manitoba, the Prairies, British Columbia and Newfoundland.

The Act also authorizes the Governor-in-Council to establish such other experimental farm stations "as may be considered advisable and in the public interest". The Minister of Agriculture is authorized to charge each experimental farm station to:

- (a) conduct research and verify experiments designed to test the relative value, for all purposes, of different breeds of stock and their adaptability to the varying climatic or other conditions that prevail in the various provinces and in the Northwest Territories;
- (b) study the economic questions involved in the production of butter and cheese;
- (c) test the merit, hardiness and adaptability of new or untried varieties of wheat or other cereals, and of field crops, grasses and forage plants, fruits, vegetables, plants and trees, and distribute among persons engaged in farming, gardening or fruit growing, on such conditions as are prescribed by the Minister, samples of the surplus of such products as are considered to be specially worthy of introduction;
- (d) analyze fertilizers, whether natural or artificial, and conduct experiments with those fertilizers, in order to test their comparative value as applied to crops of different kinds;
- (e) study the composition and digestibility of foods for domestic animals;
- (f) conduct experiments in the planting of trees for timber and for shelter;
- (g) study the diseases to which cultivated plants and trees are subject and the ravages of destructive insects, and ascertain and test the most useful preventives and remedies to be used in each case;
- (h) study the diseases to which domestic animals are subject;
- (i) ascertain the vitality and purity of agricultural seeds; and

- (j) conduct any other experiments and research bearing on the agricultural industry of Canada that are approved by the Minister.

FARM CREDIT ACT, R.S.C. 1985, c. F-2

"An Act to provide for the extension of long-term mortgage credit to farmers"

This Act creates the Farm Credit Corporation, the objects and purposes of which are to make and to administer and supervise farm loans.

Loans may be made to farmers individually or jointly with others and to farming corporations or cooperative farm associations.

Loan funds may be used to purchase farm land, make permanent improvements, purchase breeding stock and farm equipment, consolidate debts or for any purpose that will facilitate the efficient operation of the farm.

Loans are secured by a mortgage on farm land and any additional security which the Farm Credit Corporation may require, such as a chattel mortgage on livestock and equipment or other types of security.

Two types of loans are available under the *Farm Credit Act*:

- (a) Standard farm loans: Borrowers must, after the loan is made, be principally occupied in farming.
- (b) Loans to beginning farmers: Borrowers may retain off-farm employment while developing an economic farm business, providing farming becomes their principal occupation within five years.

The maximum loan that may be made to any one person alone or jointly with others or in respect of any one farm business is:

- (a) \$350,000 where there is one qualifying applicant;
- (b) \$600,000 where there are two or more qualifying applicants;
- (c) \$600,000 for each separate farming enterprise of an Indian band.

Applicants must be Canadian citizens or permanent residents and be of legal age to enter into a mortgage contract.

FARM DEBT REVIEW ACT, R.S.C. 1985 (2nd Supplement), c. 25

"An Act to facilitate financial arrangements between farmers and their creditors"

The Act authorizes the Governor-in-Council to establish in each province or designated area of Canada a Farm Debt Review Board. The Board's principal objective is to assist insolvent farmers arrive at an arrangement with creditors about to realize on their security or take action to collect their debts.

The Act also authorizes the Board to establish Review Panels to mediate differences between farmers and their creditors.

Each Panel is chaired by a Farm Debt Review Board member.

When an insolvent farmer applies under the Act, a stay of proceedings by all creditors against the farmer is implemented for 30 days. This stay may be renewed for three 30-day periods. Secured creditors are obliged under the Act to give notice to a farmer/debtor before taking action.

To reassure creditors, a guardian of the farmer's assets is appointed by the Board in each case. The guardian's duties are usually restricted to preparing an inventory of the farmer's assets, periodically verifying the presence and condition of those assets and advising the Board of any act or omission on the farmer's part that would jeopardize those assets.

The Board must accept a nominee of the creditors when such a nomination is made. When it is not made, the farmer shall be appointed by the Board, except where the farmer is not qualified. When the farmer is not qualified and a nomination is not made by the creditors, the Board may appoint a qualified third party as guardian.

The Board may terminate a stay of proceedings whenever it is of the opinion that the farmer is refusing to cooperate with the guardian or is jeopardizing the farm assets.

No new applications can be made to the Board for a period of two years after the date on which the first application was made, without written consent from the Board.

The Act also provides for a voluntary review of a farmer's financial affairs which may or may not have as a goal the facilitating of an arrangement with creditors. There is no stay of proceedings applicable to creditors in this case.

FARM IMPROVEMENT LOANS ACT, R.S.C. 1985, c. F-3

"An Act to encourage the provision of intermediate-term and short-term credit to farmers for the improvement and development of farms, and for the improvement of living conditions thereon"

The Act authorizes the Minister of Agriculture to guarantee loans made to farmers by chartered banks and other designated lenders for farm improvement projects.

The main purposes for which farm improvement loans can be made are:

- (a) the cost of major repairs to or major overhaul of agricultural implements or equipment for beekeeping;
- (b) the purchase of livestock or bee-stock;
- (c) the cost of major repairs to or major overhaul of agricultural equipment for a farm electric system;
- (d) the construction, repair or alteration of farm buildings;
- (e) the purchase of additional farm land;
- (f) general works for the improvement and development of a farm, including clearing and breaking of land, irrigation systems, fencing and drainage work and any work for the development of the farm designated in the regulations.

The Minister is responsible for meeting certain specified losses sustained as a result of farm improvement loans, providing certain conditions are met. One such requirement is that a borrower may have only a maximum of \$100,000 in guaranteed loans outstanding at any one time.

The maximum rate of interest payable on loans under the Act is based on and varies with the prime lending rate of chartered banks, plus 1%.

If the bank makes a guaranteed farm improvement loan, it may take as security a mortgage or hypothec upon the farm or an assignment of rights and interest of a purchaser of the farm under an Agreement of Sale. The Minister may enter into agreements to provide for the repossession or disposal of property upon which security is taken by the bank for the repayment of a guaranteed farm improvement loan.

FARM IMPROVEMENT AND MARKETING COOPERATIVES LOANS ACT, S.C. 1987, c. 31

"An Act to increase the availability of loans for the purpose of the improvement and development of farms and the processing, distribution or marketing of farm products by cooperative associations, to amend the *Farm Improvement Loans Act* and to amend certain other Acts in consequences thereof"

The Act authorizes the Minister of Agriculture to guarantee loans made to farmers and cooperatives by chartered banks and other designated lenders for farm improvement projects and to assist marketing cooperatives in the distribution and marketing of agricultural products.

The main purposes for which such loans to farmers can be made are:

- (a) the purchase of, major repair to or major overhaul of tools, implements, apparatus and machines, both fixed and not fixed to real property;
- (b) the purchase of livestock, including bees and any other prescribed animal;
- (c) the construction, repair or alteration of, or making additions to, any building or structure on a farm;
- (d) the purchase of additional land;
- (e) the erection or construction of fencing or works for drainage;
- (f) any other purpose that is prescribed; and
- (g) the consolidation or refinancing of the debts of a farmer incurred for the purposes described above.

The guarantee is restricted to 95% of the loss sustained by the lender and payment by the Minister is subject to the conditions prescribed in subsections 4(3) and 6(2) of the Act.

The main purposes for which a farm product marketing loan will be made to a marketing cooperative are:

- (a) the purchase of land;
- (b) the purchase or construction of any building or structure;

- (c) the repair or alteration of, or making additions to, any building or structure;
- (d) the purchase or repair of machinery or apparatus; and
- (e) the consolidation or refinancing of the debt of the cooperative incurred for the purposes described above.

The maximum loan to a farmer, including loans under the *Farm Improvement Loans Act*, cannot exceed \$250,000. The usual maximum amount of a loan to a cooperative is \$250,000. However, the Minister may increase that amount to a maximum of \$3 million.

The Act requires the Minister to approve any arrangement between lender and borrower that may increase the risk of the loan not being repaid according to its terms.

The Act also allows for regulations prescribing the rate of interest to be charged by the banks for this type of loan, or for prescribing a formula by which the rate may be determined.

A bank may take whatever security it would assume if the Act was not applicable.

Subsection 15(2) of the Act permits the Governor-in-Council to provide that the guarantee can be for percentages of the loan other than the 95% referred to elsewhere in the Act.

As a result of this 1987 Act, the *Farm Improvement Loans Act* will not grant new loan guarantees, but will continue to honor previously-guaranteed loans.

FARM PRODUCTS MARKETING AGENCIES ACT, R.S.C. 1985, c. F-4

"An Act to establish the National Farm Products Marketing Council and to authorize the establishment of national marketing agencies for farm products"

Part I of this Act provides for the establishment of a National Farm Products Marketing Council. Members (comprising a minimum of three and a maximum of nine, at least one-half of whom shall be primary producers) are to be appointed by the Governor-in-Council in a manner that will endeavor to ensure equal representation from the western, central and Atlantic provinces.

The duties of the Council are to:

- (a) advise the Minister of Agriculture on all matters relating to the establishment and operation of agencies under this Act, with a view to maintaining and promoting an efficient and competitive production and marketing industry;
- (b) review the operations of agencies to ensure they conduct their operations in accordance with the objects set out in the Act, which are to:
 - (i) promote a strong, efficient and competitive production and marketing industry for the regulated product or products over which the agency has power; and
 - (ii) have due regard to the interests of producers and consumers of the regulated product or products; and
- (c) work with agencies in promoting more effective marketing of farm products in interprovincial and export trade.

The Council is empowered on request by a group of producers, if directed by the Minister of Agriculture or on its own initiative to:

- (a) inquire into the merits of establishing an agency for a particular farm product or group of products, or broadening the authority of an existing agency;
- (b) review amendments to or proposed marketing plans submitted by an agency which does not have the vested power to implement such a plan;
- (c) review the operation of agencies;
- (d) review all orders and regulations proposed or made by agencies and, where it is satisfied that they are necessary for the implementation of a marketing plan that the agency is authorized to implement, approve the orders and regulations;
- (e) investigate complaints from any person who is directly affected by the operations of an agency;
- (f) conduct studies into any matter relating to the marketing of a farm product in interprovincial or export trade; and
- (g) require, for the purpose of implementing a marketing plan, persons engaged in producing or marketing farm products in interprovincial

or export trade to register with the Council or an agency, to keep books and records, and to report relevant information to the Council or the agency.

The Council shall not recommend the establishment or broadening of authority of an agency over a farm product or products unless it is satisfied that a majority of the producers of the particular farm product or products are in favor of such action.

Part II of this Act provides for the establishment of a national marketing agency by proclamation of the Governor-in-Council, for any farm product in interprovincial and export trade which is not governed by the *Canadian Wheat Board Act* or the *Canadian Dairy Commission Act*, and where a majority of the producers of the farm product or products concerned are in favor of such an agency.

The proclamation establishing the agency shall set out the powers of the agency over the designated farm product and fix the number of members of the agency (the majority of whom must be primary producers) and the manner of their appointment.

A proclamation which designates a farm product (other than tobacco, eggs and poultry) shall not set out, as a term of the marketing plan that an agency is empowered to fix and determine, the quantity in which any regulated product could be marketed in interprovincial or export trade.

Subject to the proclamation by which it is established, and to any subsequent proclamation altering its powers, an agency may:

- (a) purchase any regulated product or similar product and deal with it as it sees fit;
- (b) implement a marketing plan;
- (c) prepare and submit a marketing plan to the Council;
- (d) undertake and assist in the promotion of regulated products, improvement of their quality and variety and publication of information;
- (e) designate bodies through which any regulated product shall be marketed in interprovincial or export trade;
- (f) where so empowered by the marketing plan, make orders and regulations which it considers necessary to implement the plan and to submit it to the Council for approval;

- (g) require the remission of levies or charges by persons engaged in the production and marketing of the regulated product;
- (h) charge fees, deal in property, establish branches, employ agents, invest money and borrow on credit.

The Minister of Agriculture, with the approval of the Governor-in-Council, may enter into an agreement with any province enabling an agency to perform, on behalf of that province, functions relating to intraprovincial trade of the regulated product or to any other related matter as may be agreed upon.

FARM SYNDICATES CREDIT ACT, R.S.C. 1985, c. F-5

"An Act to provide loans to syndicates of three or more farmers to finance machinery and facilities that are to be used cooperatively in their farming operations and those of the syndicate"

The Farm Credit Corporation may make loans to a farm syndicate amounting to 80% of the actual price to the syndicate of the farm machinery, buildings or land to be purchased, buildings to be erected or improvements to be made with the loan, to a maximum of \$15,000 per member or \$100,000, whichever is the less.

A farm syndicate may take up to 15 years to repay a loan for buildings and permanently-installed equipment, and seven years for mobile machinery.

Loans are secured by a promissory note signed by the members of the farm syndicate. Additional security such as chattel or real property mortgage may be required.

A "farm syndicate" is defined as:

- (a) a cooperative farm association;
- (b) a farming corporation in which three or more shareholders are engaged in farming, the principal occupation of a majority of whom is farming;
or
- (c) an association formed by an agreement in writing, approved by the Corporation, between individuals, farming corporations or any combination thereof where any three or more of those individuals or the shareholders of any of those farming corporations are engaged in farming and the principal occupation of a majority of whom is farming.

FEEDS ACT, R.S.C. 1985, c. F-9

"An Act to control and regulate the sale of feeds"

"Feed" is defined in the Act as any substance or mixture of substances for consumption by livestock or for providing for the nutritional requirements of livestock. No person may manufacture, sell or import into Canada any feed unless it has been registered, packaged and labeled as prescribed and conforms to prescribed standards.

The Governor-in-Council may make regulations covering registration of feeds, sampling, packaging, labeling and any other particulars necessary for carrying out the Act.

FERTILIZERS ACT, R.S.C. 1985, c. F-10

"An Act for the regulation of agricultural fertilizers"

Fertilizers and supplements may only be sold in or imported into Canada if they have been registered, packaged and labeled as prescribed and conform to the standards set down in the Act and the Regulations. The Governor-in-Council may make regulations for the registration, prescribing the standards and providing for the packaging and labeling of fertilizers and supplements. Provision is also made for the regulation of fertilizers containing a control product as defined in the *Pest Control Products Act*.

GRAIN FUTURES ACT, R.S.C. 1985, c. G-11

"An Act to provide for the supervision and regulation of trading in grain futures"

The Act includes trading in grains as defined in section 2 of the *Canada Grain Act*, but, at the present time, only wheat, oats, barley, rye, flaxseed and rapeseed are traded on the basis of the futures market. It empowers the Canadian Grain Commission, under the authority of the Minister, to make regulations for registration of members of the Winnipeg Commodity Exchange, the Vancouver Grain Exchange, the Winnipeg Commodity Clearing Limited, the British Columbia Grain Shippers' Clearance Associa-

tion and the Lake Shippers' Clearance Association. The Act also provides for inspection of books, records and trading transactions and publication of information and statistics on the marketing of grain.

Three steps that can be taken by the Grain Commission when grain futures are threatened by fluctuations in price are specified in the Act.

The Commission may:

- (a) fix the minimum margin which shall be deposited in connection with trading and grain futures;
- (b) fix the maximum amount of any kind of grain that any persons may, in any period of time, commit themselves or be under commitment, by means of grain futures, to accept or deliver, unless such contracts are offset in quantity by the purchase or sale of cash grain or ownership of grain or grain products (i.e., bona fide hedging transaction); and
- (c) suspend from trading privileges any member of the Exchange if, in the opinion of the Commission, such member has been guilty of a breach of this Act or any regulation made thereunder.

The Commission is also empowered to revoke or vary any rule or by-law of the Exchange and further to hear and determine grain exchange committee appeals arising out of the alleged failure by any person to make delivery of grain in accordance with the terms of a grain futures contract. The Act also defines as offences, punishable by fine or imprisonment, any violation of any provision of the Act.

HAY AND STRAW INSPECTION ACT, R.S.C. 1985, c. H-2

"An Act respecting the inspection and grading of hay and straw"

This Act empowers the Minister of Agriculture to make regulations prescribing standards of class, quality and condition for hay and straw, certify by inspection, the class, quality and/or condition of hay and straw and prescribe the places where, and the conditions under which, hay and straw shall be inspected and the charges to be made for such inspection.

INLAND WATER FREIGHT RATES ACT, R.S.C. 1985, c. I-10

"An Act with respect to freight rates for the carriage of grain by lake and river navigation"

This Act is intended to regulate the shipping rates of grain transported on Canadian lakes or rivers for interprovincial, foreign or export trade. It is administered by the Canadian Grain Commission under the authority of the Minister of Agriculture.

Shippers are required to file with the Commission a true copy of the charter party, bill of lading or contract for carriage of the grain. The Commission must tabulate all rates and tariffs received and also ascertain the freight rates that prevail, or are required for the carriage of grain from Thunder Bay by inland waters to places in Canada or the United States. Then the Commission shall report to the Minister of Agriculture any apparent deficiency of cargo space, excessive freight charges or discrimination in rates. All ship owners and persons engaged in the grain-carrying trade must, upon request, furnish the Commission with information on these matters, or be subject to the penalties set forth in the Act.

In the cases of unreasonable, unjust or discriminatory rates, tolls or charges imposed for the carriage of grain by any person or company, the Commission may prescribe maximum rates and vary them to suit conditions prevailing at any time. Penalties may be enforced against anyone charging rates, tolls or charges in excess of the maximum set by the Commission.

LIVESTOCK AND LIVESTOCK PRODUCTS ACT, R.S.C. 1985, c. L-9

"An Act respecting stockyards, livestock and livestock products and poultry production."

Under Part I of this Act (Stockyards), "livestock" means horses, cattle, sheep, swine and fur-bearing animals raised in captivity.

In Part II of this Act, "livestock" means cattle, sheep, swine and fur-bearing animals raised in captivity and live poultry; "livestock products" means meat, raw hides and skins, raw furs, dressed poultry, eggs or wool; and "poultry" means domestic fowl, guinea fowl and pigeons.

Part I enables the Governor-in-Council to make regulations governing the manner of construction, equipment and operations of stockyards, the way in which sales transactions are presented and the manner of recording receipts, classifications, weights and purchase prices of livestock. Also included are regulations over the manner of calf inspection and disposal, the manner in which shippers' trust accounts are kept by cooperative associations and commission merchants and the way in which livestock consigned for sale or commissions may be pooled.

Part II provides that the Governor-in-Council may, with respect to any livestock or livestock products produced within or imported to Canada, make regulations prescribing quality standards and grades. These involve inspection, grading, packing, packaging, labeling, branding and marking. Regulations also cover the shipping and transporting of any livestock or livestock products. However, Part II of the Act has been superseded by the *Canada Agricultural Products Act* and the *Meat Inspection Act*.

In Part III of this Act, dealing with poultry production, "poultry" means domestic or wild fowl or birds. This Part provides that the Governor-in-Council may make regulations:

- (a) prescribing the Dominion Poultry Improvement Program for the improvement of poultry stock and the eradication of disease;
- (b) prescribing terms and requirements for the production of chicks and poultry under such programs;
- (c) prescribing where and when the Dominion Hatchery Approval Policy and its regulations, under the Dominion Poultry Improvement Program, shall be in force;
- (d) prescribing measures for hatchery sanitation;
- (e) prescribing measures for inspection, banding and marketing of chicks and poultry; and
- (f) prescribing the method of applying the pullorum test and the period during which it shall be deemed effective.

No person shall operate a hatchery within a province in which the Dominion Hatchery Approval Policy has been proclaimed unless a permit has been secured from the Minister. Shipment of chicks from any place in Canada into any province in which the Dominion Hatchery Approval Policy has been proclaimed under this Act is forbidden. Exceptions are when: such chicks have been produced and labeled, as required under such Policy, and if such

province has made pullorum testing a requirement of its flock approval policy; such chicks were produced in approved hatcheries using only eggs from flocks approved under a provincial flock approval policy which, in the opinion of the Minister, requires pullorum tests as stringent as those of the province into which such chicks are to be shipped.

LIVESTOCK FEED ASSISTANCE ACT, R.S.C. 1985, c. L-10

"An Act to provide assistance to livestock feeders in Eastern Canada, British Columbia, the Yukon Territory and the Northwest Territories"

The Act establishes the Canadian Livestock Feed Board and provides for the creation of an Advisory Committee to report to the Minister and the Board.

The objects of the Board are to ensure:

- (a) the availability of feed grain to meet the needs of livestock feeders;
- (b) the availability of adequate storage space in eastern Canada for feed grain;
- (c) reasonable stability in the price of feed grain in eastern Canada, British Columbia, the Yukon Territory and the Northwest Territories; and
- (d) fair equalization of feed grain prices in eastern Canada, British Columbia, the Yukon Territory and the Northwest Territories.

The Board may also:

- (a) make payments related to the cost of feed grain storage in eastern Canada; and
- (b) make payments related to the cost of feed grain transportation.

These payments are made for the benefit of livestock feeders in accordance with the regulations.

It is the duty of the Board:

- (a) to study feed grain requirements, the availability of feed grain and the requirements for additional feed grain storage facilities in eastern Canada and British Columbia;

- (b) to make recommendations to the Minister on the requirements for additional feed grain storage facilities in eastern Canada;
- (c) to advise the government on all matters concerning stabilization and equalization of feed grain prices to livestock feeders; and
- (d) to consult and cooperate with all departments, boards or agencies of the Government of Canada, or of any province having duties related to those of the Board.

The Board may, at any time when it is so authorized by regulations:

- (a) buy or enter into contracts or agreements for the purchase of feed grain in eastern Canada and British Columbia and in the designated area, but when purchase is made by the Board within the designated area, such purchase shall be made from the Canadian Wheat Board or its agent;
- (b) within the provisions of any licence obtained in its name authorizing it to import feed grain, buy or enter into contracts or agreements for the purchase of feed grain outside Canada and import such feed grain into Canada; and
- (c) take delivery, ship, store, handle or sell or otherwise dispose of feed grain in eastern Canada or British Columbia and enter into contracts for the delivery, shipping, storage, handling, insurance and sale or other disposition of such feed grain.

The Governor-in-Council may make regulations prescribing, with respect to payments related to the cost of feed grain storage and transportation, the eligibility of those to whom such payments may be made and the rate of such payments within eastern Canada, British Columbia, the Yukon Territory and the Northwest Territories.

MEAT IMPORT ACT, R.S.C. 1985, c. M-3

"An Act to regulate the importation into Canada of fresh, chilled and frozen meat and to amend the *Export and Import Permits Act*"

This Act provides the authority for the Minister of Agriculture, with the concurrence of the Secretary of State for External Affairs* to establish such restrictions as the Minister considers appropriate on the quantity of fresh,

chilled and frozen beef and veal that may be imported in a calendar year. Any restrictions which are imposed may, at the discretion of the Minister, with concurrence of the Secretary of State for External Affairs, be suspended, revoked or adjusted to allow for increased quantities.

Restrictions on the quantity of beef and veal imported to Canada may not result in a level of imports less than the minimum global access commitment agreed to by Canada in the *General Agreement on Tariffs and Trade* (GATT).

* This authority has been delegated by the Secretary of State for External Affairs to the Minister for International Trade.

MEAT INSPECTION ACT, R.S.C. (1st Supplement) 1985, c. 25

"An Act respecting the import and export of and interprovincial trade in meat products, the registration of establishments, the inspection of animals and meat products in registered establishments and the standards for those establishments and for animals slaughtered and meat products prepared in those establishments"

This Act deals with the import, export, interprovincial trade and inspection of meat. It also deals with the slaughter of animals and the preparation, packaging, labeling and storage of meat products.

The Act allows for the creation of registered establishments for the slaughter of animals and for preparing, packaging, labeling and storing of meat products.

It also creates a meat inspection legend as a national trade mark and prohibits its use unless authorized by the regulations.

The Act makes it illegal to export a meat product from Canada, convey a meat product from one province to another, import a meat product to Canada, or advertise or sell an imported or "interprovincial" meat product unless the meat product has been stored in a registered establishment, is inspected and complies with the regulations.

The Act allows for the appointment of inspectors who have power to enter premises, open packages, take samples, examine documents, and seize and detain any meat products.

The Governor-in-Council can make regulations regarding the meat inspection legend, registered establishments, slaughtering and handling procedures, standards for meat products, packaging and labeling of meat products and storage, handling and transportation of meat products.

The Act defines offences for the contravention of provisions of the Act and allows for fines of as much as \$100,000.

PEST CONTROL PRODUCTS ACT, R.S.C. 1985, c. P-9

"An Act to regulate products used for the control of pests and the organic function of plants and animals"

A "control product" under this Act is defined as "any product, device, organism, substance or thing that is manufactured, represented, sold or used as a means for directly or indirectly controlling, preventing, destroying, mitigating, attracting or repelling any pest."

The Act enables the Governor-in-Council to make regulations regarding the manufacture, storage, distribution, advertising, packaging, labeling, importing, exporting or use of these products and the standards for efficacy and safety of control products.

Inspectors are appointed to enforce the provisions of the Act.

PESTICIDE RESIDUE COMPENSATION ACT, R.S.C. 1985, c. P-10

"An Act to provide compensation to farmers whose agricultural products are contaminated by pesticide residue and to provide for compensation awards"

The Act allows for compensation to a farmer for loss suffered because of the presence of unauthorized pesticide residue in an agricultural product, provided that recommended agricultural practices have been followed.

The Governor-in-Council may make regulations concerning eligibility for compensation, the methods of calculating the amount of compensation for

loss, terms and conditions of payment, maximum and minimum compensation, exclusion of certain products, persons or class of products and any other regulations necessary to carry out this Act.

The Minister may designate any qualified persons as inspectors who may at any reasonable time enter any place or premises in which they believe there is any agricultural product, pesticide or thing that will enable them to carry out any investigation that may be required by the Minister. Inspectors may open any container or package, examine anything found therein they believe will assist them in such investigation and take samples thereof.

Penalties are provided for, and the Governor-in-Council may appoint an Assessor and Deputy Assessors to hear and determine appeals for compensation under this Act.

The decision of the Assessor on any appeal is final and conclusive and not subject to appeal or review by any court.

PLANT QUARANTINE ACT, R.S.C. 1985, c. P-15

“An Act to prevent the introduction or spreading of pests injurious to plants”

In this Act, “pest” means any insect, plant or animal organism, virus, bacterium, disease or disease-inciting agent causing or capable of causing injury or damage to any vegetable, any part, product or by-product of a vegetable or any plant material. “Plant or other matter” means any plant, plant material, material, equipment, carrier, container, article or other thing that may contain or carry any pest.

Except as provided by this Act and its regulations, no person shall knowingly introduce or admit to Canada, spread within Canada or convey within or from Canada any pest or any plant or other matter that is infested or likely to be infested with a pest or that constitutes a biological obstacle to the control of any pests.

The Governor-in-Council may make regulations for preventing or controlling the introduction or admission to Canada or the spreading within Canada or from Canada of any pest or plant or other matter that is infested or likely to be infested with a pest.

The Act provides for the appointment of inspectors to enforce this Act. Penalties are provided for violations.

The Minister may order compensation for any plant or other matter destroyed or prohibited or restricted from sale or any restriction of the use of any property or premises in the amounts approved by and subject to the terms and conditions of the regulations pursuant to this Act. Where the compensation awarded is less than the maximum compensation prescribed under this Act, or where no compensation is awarded, an appeal may be brought to the Assessor appointed under the *Pesticide Residue Compensation Act* on the grounds that the amount of compensation awarded or the failure to award compensation may have been unreasonable.

PRAIRIE FARM REHABILITATION ACT, R.S.C. 1985, c. P-17

"An Act to provide for the rehabilitation of drought and soil-drifting areas in the provinces of Manitoba, Saskatchewan and Alberta"

The purpose of this Act is to rehabilitate drought and soil-drifting areas in the provinces of Manitoba, Saskatchewan and Alberta, and to develop and promote up-to-date systems of farm practice, tree culture, water supply, land utilization and land settlement that will afford greater economic security to farms and farmers.

The Minister of Agriculture may undertake the development, construction, promotion, operation and maintenance of projects or schemes under or by virtue of this Act, or enter into agreements with any province, municipality, or person with respect thereto.

PRAIRIE GRAIN ADVANCE PAYMENTS ACT, R.S.C. 1985, c. P-18

Amendment: 3rd Supplement c. 2

"An Act to provide for advance payments for Prairie grain prior to delivery thereof"

The Canadian Wheat Board may make a payment to a producer as an advance on an initial payment for threshed grain in storage prior to its delivery to the Board. No advance payment shall be made to a producer unless an application is made during the current crop year and before the first day

of June in that crop year. The application must be approved by the manager or operator of an elevator or other person authorized by the Board to make advance payments on its behalf. No person who has received an advance payment under this Act in any crop year and who is in default is entitled to receive another advance payment until the undertaking has been discharged.

An application form for an advance payment must be signed by the producer and show the amount of the advance payment for which application is made. The kinds and quantities of threshed grain in the application at the time of application must be noted, as well as the number of the permit book under which the producer is entitled to deliver grain, whether the producer has received a previous advance payment, whether the producer has applied for, received or is in default of an advance for failure to have delivered under the *Advance Payments for Crops Act* and any other particulars specified by the Board. Pursuant to subsection 4(2), an application must be verified by affidavit and also include an authorization by the applicant stating that, where the applicant sells grain of any kind delivered to an elevator, the operator of which is authorized to purchase grain for the Board, at a certain amount per tonne. In a crop year, the permit book specified in the application — or any permit book issued in substitution or extension thereof — the authorization may provide for deductions to the initial payment or payment for the grain, until the undertaking of the applicant has been discharged. The amount payable per tonne is equal to the lesser of:

- (a) the amount per tonne determined pursuant to section 8 as the advance payment rate per tonne in respect of a type of grain; or
- (b) the amount remaining after the charges for freight and handling (and any other charge or levy prescribed or authorized by law and payable in respect of the grain upon its delivery and sale) are deducted from the initial payment or payment for the grain.

Before an advance payment is made to producers, they will execute an undertaking in prescribed form in favor of the Board principally to the effect that:

- (a) as soon as general acreage quotas enable the producer to do so, the producer will, in addition to any deliveries described in subsection 15(2), deliver and sell grain to the Board until the aggregate of the deductions from the initial payments for the grain under subsection 4(2) in respect of those deliveries and sales of grain to the Board is equal to the advance payment made to the producer; and
- (b) upon default, the producer will pay to the Board the amount in default with interest at the appropriate prescribed rate per annum on the amount in default from the date of the making of the advance payment.

The recipient may, at any time prior to default, discharge his obligation to deliver grain to the Board, by payment to the Board.

Where two or more producers are entitled to deliver grain under one permit book, no advance payment will be made unless all producers named in the permit book jointly apply and execute the undertaking. The advance payment will be made to all such producers jointly, or as they direct in the application. An application must specify the shares of the advance payment to be paid to each.

Subject to sections 7 and 8, the amount of an advance payment to a producer regarding grain, deliverable under the permit book specified in the application, will be the quantity of threshed grain (irrespective of grade) that the applicant has in storage other than in elevator. The applicant must also undertake to deliver to the Board, less any undelivered grain in respect of which a previous advance payment was made, multiplied by the advance payment rate per tonne prescribed for that kind of grain. The maximum advance payments in a crop year are \$30,000 for an individual or a corporation with only one shareholder, \$60,000 for two individuals, partners or shareholders and \$90,000 for three or more individuals, partners or shareholders, less any amount advanced under the *Advance Payments for Crops Act*.

The Act also provides for emergency advance payments for drying damp or tough grain and unthreshed grain.

The Board holds a lien on grain for which advance payments have been made.

SEEDS ACT, R.S.C. 1985, c. S-8

"An Act respecting the testing, inspection and sale of seeds"

Under this Act, "seed" means any plant part of any species belonging to the plant kingdom, represented, sold or used to grow a plant.

Except as provided by the regulations, no person shall:

- (a) sell, import into Canada, or export from Canada any seed unless it conforms to the prescribed standard and is marked and packed and the package labeled as prescribed;
- (b) sell or advertise for sale in Canada or import into Canada seed of a variety that is not prescribed by the Minister;

- (c) sell, import into Canada or export from Canada seed under a grade name or designation so closely resembling a grade name established under subsection 4(1) that it may be mistaken therefor; or
- (d) apply to seed or to a package containing seed a grade name so closely resembling a grade name established under subsection 4(1) that it may be mistaken therefor.

The Governor-in-Council may establish regulations:

- (a) specifying grades with appropriate grade names for seeds;
- (b) prescribing the terms and conditions under which seed crops may be inspected or seeds may be graded or tested;
- (c) prescribing the minimum standards of purity, germination, quality and disease for seeds;
- (d) respecting the packing and marking of seeds and the marking and labeling of seed packages;
- (e) prescribing the terms and conditions under which variety names of seeds may be used;
- (f) exempting any seed or any person from the operation of all or any of the provisions of the Act;
- (g) respecting the taking of samples and the testing of seeds for the purposes of this Act;
- (h) respecting the fees that may be charged for any services provided under this Act;
- (i) respecting the detention, preservation and safeguarding of anything seized under section 8;
- (j) respecting the disposition of anything forfeited under section 8;
- (k) prescribing anything else that by this Act is required to be prescribed; and
- (l) generally, for carrying out the purposes and provisions of this Act.

The Minister may prescribe the species of plants, the seeds of which the Minister deems are weed seeds, for the purpose of establishing grades under this Act.

WESTERN GRAIN STABILIZATION ACT, R.S.C. 1985, c. W-7

Amendment: 1st Supplement c. 40

Amendment: 4th Supplement c. 36

"An Act respecting the stabilization of net proceeds from the production and sale of western grain and to amend statutes in consequence thereof"

This legislation primarily concerns grain producers (wheat, oats, barley, rye, flaxseed, canola, rapeseed and mustard seed) in the designated area named in Schedule I of the *Canada Grain Act*. Producers contribute to a fund to which the federal government also contributes at a rate of 2% of participating eligible grain sale proceeds. The Act defines the conditions for eligibility to participate and provides for withdrawal by participants at times set out in subsections 5(1) and (3). At the end of each year, the Minister determines if stabilization payments are to be made. The provisions for calculation are set out in sections 8 and 9. In turn, the calculations under sections 8 and 9 form the basis for the Minister to decide if stabilization payments are to be made pursuant to section 10. Sections 11 and 12 also relate to calculations.

The levies paid by producers are collected by grain companies and dealers licensed by the Canadian Grain Commission and a secondary group of commercial grain buyers registered as "Designated Purchasers" with the Western Grain Stabilization Administration. The initial levy is 4%, however section 17 provides for changes in the rate of levy. In the case of joint or corporate farming arrangements, section 18 stipulates the rules for determining the grain-sale proceeds upon which levy is payable. In cases involving crop loss insurance settlements, the Minister has power in section 18 to deem these proceeds to be eligible for levy entitlement. Where sales are made directly to operators of feedmills, feedlots, seed plants and similar commercial grain purchase establishments, the Minister may, under section 20, deem proceeds from the sale to be eligible proceeds of the participant upon which levy is payable.

Where levy deductions are made by the Canadian Wheat Board from adjustment or final grain payments issued to participating producers, section 21 contains a provision to determine in which year the levy has been paid.

Each year, the Minister reports on levy payments and arranges for the refund of any excess levies. There are a number of incidental provisions relating to recovery of improperly-made payments or refunds, subject to section 27 of the Act and section 155 of the *Financial Administration Act*. Stabilization payments and refunds are exempt from garnishment or attachment and are not assignable except as authorized under the Act.

Under the Act the Commission may, upon application by any interested person, investigate complaints alleging that:

- (a) the amount determined to be the levy for a year paid by the applicant is incorrect;
- (b) the amount required or authorized to be paid as the levy for a year by the applicant is incorrect;
- (c) the eligibility as a participant of the applicant, or the election by the applicant not to participate under this Act, has not been correctly recognized;
- (d) the entitlement of the applicant to a stabilization payment or refund of levy has not been correctly recognized; or
- (e) an amount has been wrongfully recovered from the applicant.

Responsibility for consideration of an appeal by a producer from an order of the Minister of ineligibility to participate under this Act also rests with the Commission.

After investigating and considering a complaint or an appeal, the Commission may make orders for payment, applicable levy or eligibility of a participant.

The Governor-in-Council may make regulations prescribing form, information to be supplied and conditions under which persons buying seed for resale or processing may be designated as purchasers for the purpose of the Act.

The Western Grain Stabilization Account is established in the Consolidated Revenue Fund. Section 46 provides that the Minister must on or before May 31 each year or, if Parliament is not sitting, within five days of Parliament's resumption, submit a report to Parliament on the administration of the Act, including a report on the state of the Stabilization Account.